

HR Weekly Podcast  
June 20, 2008

Today is June 20, 2008, and welcome to the HR Weekly Podcast from the State Office of Human Resources. This week's topic concerns an update about the Genetic Information Nondiscrimination Act, or GINA.

President Bush signed GINA into law on May 21, 2008. This new law prohibits employers with 15 or more employees from discriminating against individuals based on genetic information. Genetic information is defined as an individual's own genetic tests, genetic tests of an individual's family members, or genetic disease in an individual's family members. Employers are not to discriminate with regards to hiring, firing, or compensating or in any other way that would deny employment opportunities or privileges to applicants or employees.

Employers are prohibited from buying, requesting, or requiring genetic information about an employee or an employee's family member. There are, however, a few exceptions. GINA still allows an employer to obtain medical information to satisfy the requirements of family and medical leave laws. In addition, GINA does not apply to obtaining genetic information when it is used to monitor the biological effects of toxic substances in the workplace as long as certain conditions are met. Genetic information is considered private and employers will be required to keep this information in a separate, confidential file just like any disability related information is kept under the Americans with Disability Act, or ADA.

In addition, GINA also affects health insurers. GINA amends the Employee Retirement Income Security Act, or ERISA; the Public Health Services Act, or PHSA, and the Internal Revenue Code to bar group health plans from increasing premiums or rejecting coverage on the basis of genetic information. Health insurers are also restricted in requiring or asking an individual to undergo genetic testing.

The employment provisions of GINA are to take effect in November 2009. The Equal Employment Opportunity Commission will enforce these new employment provisions and promulgate the new set of regulations. The Department of Labor has until May of 2009 to issue regulations concerning the health insurance component. Employers and group health plans should make certain that their policies and procedures do not request or require genetic information.

OHR will keep you informed about the status of GINA as more information is provided. If you have questions, please contact your HR consultant at 803-737-0900.

Thank you.